

REGULAR

(See instructions on reverse)

For use by Secretary of State only

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 4-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER 2-07-0108-07	REGULATORY ACTION NUMBER 07-0619-065	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
AGENCY WITH RULEMAKING AUTHORITY Department of Consumer Affairs, Bureau of Automotive Repair		AGENCY FILE NUMBER (if any) 79	

2007 JUN 19 PM 3:25
OFFICE OF ADMINISTRATIVE LAW

2007 AUG -1 PM 1:35
Jim Allen

NOTICE REGULATIONS

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

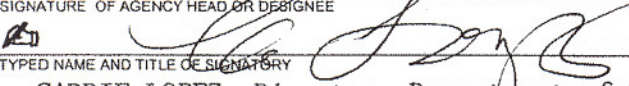
1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER ()	FAX NUMBER (Optional) ()
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 07#32	PUBLICATION DATE 1-19-2007

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Low-Pressure Fuel Evaporative System Test / Directed Vehicle Testing		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)			
SECTION(S) AFFECTED (List all section number(s) individually)	ADOPT AMEND 3340.16, 3340.42 & 3392.2 REPEAL		
TITLE(S) 16			
3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code, §§ 11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b)) <input type="checkbox"/> Emergency Readopt (Gov. Code, § 11346.1(h)) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) <input type="checkbox"/> Other (specify)			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45) N/A			
5. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code, §§ 11343.4, 11346.1(d))			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> Effective other (Specify)			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal			
<input type="checkbox"/> Other (Specify)			
7. CONTACT PERSON James Allen	TELEPHONE NUMBER (916) 255-4300	FAX NUMBER (Optional) (916) 255-1369	E-MAIL ADDRESS (Optional) jim_allen@dca.ca.gov

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 5-14-07
TYPED NAME AND TITLE OF SIGNATORY CARRIE LOPEZ, Director, Department of Consumer Affairs	

BUREAU OF AUTOMOTIVE REPAIR

ORDER OF ADOPTION

The Bureau of Automotive Repair hereby adopts the following regulation in Articles 5.5 and 10 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations as follows:

1. *Section 3340.16 of Article 5.5 is amended to read as follows:*

§ 3340.16. Test-Only Station Requirements.

(a) A smog check test-only station operating in other than an enhanced program area shall have all testing equipment and emission application and reference manuals necessary to test and/or inspect all affected vehicles, including the following:

* * * *

(10) On and after November 1, 2007, low-pressure fuel evaporative test equipment that has been certified by the bureau as compliant with the *Low-Pressure Fuel Evaporative Tester (LPFET) Specifications* dated October 2006 and hereby incorporated by reference. The test equipment shall be maintained and calibrated in accordance with the LPFET Specifications referenced in this paragraph and in accordance with the manufacturer's specifications. Vehicle data low-pressure fuel evaporation test results shall be transmitted to a database specified by the department in accordance with the procedures contained in the LPFET Specifications referenced in this paragraph, which include the form, manner and frequency of data transmittals.

* * * *

Note: Authority cited: Sections 44001.5, 44002, and 44013 and 44036, Health and Safety Code and Section 9882 of the Business and Professions Code. Reference: Sections 44010, 44012, 44013, 44014, 44014.5, and 44015, 44017.1, 44033, 44036 and 44037.1, Health and Safety Code.

2. *Section 3340.42 of Article 5.5 is amended to read as follows:*

§ 3340.42 Mandatory Emissions Inspection Standards and Test Procedures.

Smog check stations and smog check technicians shall conduct tests and inspections in accordance with the bureau's BAR-97 Emissions Inspection System Specifications referenced in subsections (a) and (b) of Section 3340.17 and the following:

(a) There shall be two test procedures as follows:

(1) The loaded-mode test method shall be the primary test method used in the enhanced

program areas of the state. The loaded-mode test method shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen emissions. The loaded-mode test equipment shall be Acceleration Simulation Mode (ASM) test equipment, including a chassis dynamometer, certified by the bureau. The loaded-mode test procedures, including the preconditioning procedure, shall only be conducted according to the bureau-approved procedures specified in this section and include the following:

(A) Place the vehicle's driving wheels on a chassis dynamometer and properly restrain the vehicle prior to commencing the test.

(B) Exhaust emissions shall be tested and compared to the emission standards set forth in this section and as shown in Table I or Table II, as applicable.

(C) With the vehicle operating, sample the exhaust system in the following sequence:

1. Accelerate the vehicle to the cruise condition as specified by the test procedures.
2. Operate the vehicle long enough to stabilize emission levels.
3. Measure and record emissions (hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen).

(2) The two-speed idle mode test method shall be used in all program areas of the state, other than the enhanced program areas. The two-speed idle mode test method shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as contained in the bureau's specifications referenced in subsection (b) of Section 3340.17 of this article. Exhaust emissions from a vehicle subject to inspection shall be tested and compared to the emission standards set forth in this section and as shown in Table III.

(3) All tests shall be performed with the engine at its normal operating temperature.

(4) All loaded mode testing shall be conducted in a manner that does not induce excess emissions to the test.

(b) There shall be a liquid fuel leak inspection as follows:

(1) As used in this section, "liquid fuel leak" means any fuel emanating from a vehicle's fuel delivery, metering, or evaporation systems in liquid form that has created a visible drop or more of fuel on a component of a vehicle's fuel delivery, metering, or evaporation system or has created a fuel puddle on, around, or under a component of a vehicle's fuel delivery, metering, or evaporation system.

(2) With the engine running, the smog check technician shall visually inspect the following

components of the vehicle, if they are exposed and visually accessible, for liquid fuel leaks:

- (A) Gasoline fuel tanks.
- (B) Gasoline fill pipes, associated hoses and fuel tank connections.
- (C) Gas caps.
- (D) External fuel pumps.
- (E) Fuel delivery and return lines and hoses.
- (F) Fuel filters.
- (G) Carburetors.
- (H) Fuel injectors.
- (I) Fuel pressure regulators.
- (J) Charcoal canisters.
- (K) Fuel vapor hoses.
- (L) Any valves connected to any other fuel evaporative component.

(3) If a smog check technician detects a liquid fuel leak, the technician shall enter "F" (Defective) in the "Fuel Evaporative Controls" category of the visual inspection when prompted by the emissions inspection system (EIS) and the vehicle shall fail the inspection.

(4) Smog check technicians shall indicate on the vehicle inspection report the location of any liquid fuel leak.

(5) The liquid fuel leak inspection required by this section is a visual inspection only. Smog check technicians are not required to perform any disassembly of the vehicle to inspect for liquid fuel leaks. No special tools or equipment, other than a flashlight and mirror, are required and no raising, hoisting or lifting of the vehicle is required.

(6) Expenditures for repairs made at a licensed smog check station to correct liquid fuel leaks detected during a smog check inspection shall be credited toward the repair cost waiver expenditure specified in section 44017 of the Health and Safety Code, or applied to the repair assistance program co-payment specified in section 44062.1 of the Health and Safety Code and Section 3394.4 of this chapter.

(7) Nothing in this subsection shall prohibit a technician from refusing to inspect a vehicle or from aborting an inspection if a liquid fuel leak presents a safety hazard.

(8) This subsection shall not apply to vehicles fueled exclusively by compressed natural gas (CNG), liquid natural gas (LNG), or liquid petroleum gas (LPG).

(c) On and after November 1, 2007, all motor vehicles subject to the program, except as provided in paragraph (1) of this subsection, shall be given a low-pressure test of the fuel evaporative control system as part of a smog check inspection.

(1) The following vehicles are exempt from the low-pressure fuel evaporative test, and when inspecting these vehicles, the Smog Check technician shall enter "N" (Not Applicable) at the EIS "Fuel Evaporative Test" prompt:

(A) 1996 and newer model-year vehicles that are equipped with a Series II On-Board Diagnostic (OBD II) system with the capability to perform a self-diagnosis of the vehicle's fuel evaporative system;

(B) Vehicles for which there are no fuel tank filler neck adapters;

(C) Vehicles powered exclusively by compressed natural gas (CNG), liquid natural gas (LNG) or liquid petroleum gas (LPG);

(D) Vehicles not originally equipped, and not required by state or federal law to be equipped, with a fuel evaporation control system;

(E) Vehicles with two or more fully operational fuel tanks; and

(F) Vehicles, in their original factory configuration, with a fuel evaporative canister and fuel vapor hoses that are not accessible or would require the partial dismantling of the vehicle in order to gain access to them for testing. If the fuel evaporative system pressure test is infeasible pursuant to this subparagraph, the technician shall note the location of the canister on the vehicle inspection report provided to the consumer pursuant to Section 3340.41 of this article.

(2) Smog Check stations and Smog Check technicians shall perform the low-pressure test of a vehicle's fuel evaporative systems, using a BAR-certified low-pressure fuel evaporative tester (LPFET). The test shall be performed in accordance with the test procedures and specifications contained in the LPFET instruction manual provided by the tester's manufacturer, and the following, as applicable:

(A) If components related to the vehicle's fuel evaporation system are missing, modified, or disconnected, enter "F" at the EIS "Fuel Evaporative Test" prompt. If the vehicle's fuel evaporation system components are not missing, modified or disconnected, proceed with the test.

(B) If, at the conclusion of the test, the LPFET displays a "P" (pass), enter "P" in the EIS at the "Fuel Evaporative Test" prompt.

(C) If, at the conclusion of the test the LPFET displays an "F" (fail), perform a seal check in

accordance with the procedures and specifications contained in the LPFET instruction manual provided by the tester's manufacturer.

1. If, after completion of the appropriate seal check, the system is found to be properly sealed, enter "F" (fail) in the EIS at the "Fuel Evaporative Test" prompt.

2. If, after completion of the appropriate seal check, the system is found not to be properly sealed follow the applicable procedures and specifications contained in the LPFET instruction manual provided by the tester's manufacturer to correct the leaks and effect proper seals.

(D) After all leaks have been corrected, a verification test shall be performed in accordance with the procedures and specifications contained in the LPFET instruction manual provided by the tester's manufacturer.

1. If, at the conclusion of the verification test, the LPFET displays a "P" (pass), enter "P" in the EIS at the "Fuel Evaporative Test" prompt.

2. If, at the conclusion of the verification test the LPFET displays an "F" (fail), enter "F" in the EIS at the "Fuel Evaporative Test" prompt.

(E) At the completion of the test and any necessary verification test, following the procedures and specifications contained in the LPFET instruction manual provided by the tester's manufacturer, depressurize the evaporative system, remove the tester and return the fuel evaporative system to its original configuration.

(3) Nothing in this subsection shall excuse a station or a technician from completing the visual inspection of the vehicle as required by Section 3340.17 or the liquid fuel leak inspection as required by subsection (b) of this section.

(e)(d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter standards are as follows:

(1) A gross polluter means a vehicle with excess hydrocarbon, carbon monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions standards included in TABLES I, II or III.

(2) Vehicles with emission levels exceeding the emission standards for gross polluters during an initial inspection will be considered gross polluters and the provisions pertaining to gross polluting vehicles will apply, including, but not limited to, sections 44014.5, 44015, 44017 and 44081 of the Health and Safety Code.

(3) A gross polluting vehicle shall not be passed or issued a certificate of compliance until

the vehicle's emissions are reduced to or below the applicable emissions standards for the vehicle as indicated in TABLES I, II, or III. However, the provisions described in section 44017 of the Health and Safety Code may apply.

(4) This subsection applies in all program areas statewide to vehicles requiring inspection pursuant to sections 44005 and 44011 of the Health and Safety Code.

(5) The gross polluter emission standards in TABLE III shall be used to determine if a vehicle shall be designated as a gross polluter.

~~(d)~~(e)(1) In the enhanced program areas, heavy-duty vehicles shall be tested using the loaded-mode testing method as provided in paragraph (1) of subsection (a)~~(1)~~ of this section, unless:

(A) The vehicle has a drive axle weight that exceeds 5,000 pounds when the vehicle is unloaded, or

(B) The vehicle is classified by the Department of Motor Vehicles as a motorhome, or

(C) The vehicle has a body and/or chassis configuration or modification made for business purposes that renders the vehicle incompatible with loaded-mode testing, or

(D) The emission inspection system prompts the technician to perform the two-speed idle test.

(2) For the purposes of this subsection, the term "unloaded" shall mean that the vehicle is not currently transporting loads for delivery or is not carrying items of a temporary nature, but excludes items that have been welded, bolted or otherwise permanently affixed to the vehicle, and tools, supplies, parts, hardware, equipment or devices of a similar nature that are routinely carried in or on the vehicle in the performance of the work for which the vehicle is primarily used.

(3) For the purposes of this subsection, modifications that render a vehicle incompatible with loaded-mode testing shall not include any tire, wheel, body or chassis modifications made for other than business purposes.

(4) If it is determined that a heavy-duty vehicle cannot be subjected to a loaded-mode test for any of the reasons set forth in subparagraphs (A) through (D) of paragraph (1) of this subsection, the technician shall perform a two-speed idle test. The technician shall also note on the final invoice the justification for the performance of a two-speed idle test.

* * * *

NOTE: Authority cited: Sections 44001.5, 44002, 44003, 44012, 44013 and 44036, Health and Safety Code and Section 9882 of the Business and Professions Code. Reference: Sections 39032.5, 44002, 44003, 44005, 44010, 44011, 44011.3, 44012, 44013, 44014, 44014.5, 44014.7, 44015, 44017, 44017.1, 44032, 44033, 44036, 44037.1, 44062.1 and 44081, Health and Safety Code and Sections 9884.8 and 9884.9 of the Business and Professions Code.

3. *Section 3392.2 of Article 10 is amended to read as follows:*

§ 3392.2. Responsibilities of Smog Check Stations Certified as Gold Shield.

(a) Smog Check test-and-repair stations certified as Gold Shield stations shall provide the following services to the public:

(1) State subsidized emissions-related repairs, under the terms and conditions of a contract executed pursuant to Section 3394.2, as a component of the Bureau's Consumer Assistance Program established pursuant to Article 11 of this Division. This paragraph shall not apply to those stations located in change of ownership program areas.

(2) The certification of vehicles previously identified as gross polluters.

(3) For Gold Shield stations with a complete BAR-97 Emissions Inspection System capable of performing enhanced area loaded-mode inspections pursuant to paragraph (1) of subdivision (a) of Section 44003 of the Health and Safety Code, irrespective of their program area location, the initial testing and certification of vehicles directed to Test-Only stations pursuant to Sections 44010.5 or 44014.7 of the Health and Safety Code.

(4) For Gold Shield stations with a complete BAR-97 Emissions Inspection System capable of performing enhanced area loaded-mode inspections pursuant to paragraph (1) of subdivision (a) of Section 44003(a)(1) of the Health and Safety Code, irrespective of their program area location, the after-repairs certification of failed vehicles that were directed to and initially tested at Test-Only stations pursuant to Sections 44010.5 or 44014.7 of the Health and Safety Code provided that the vehicles are repaired at the Gold Shield station.

~~(4)~~(5) For Gold Shield stations located in basic or change of ownership program areas that do not perform enhanced area loaded-mode inspections pursuant to paragraph (1) of subdivision (a) of Section 44003(a)(1) of the Health and Safety Code, the certification of vehicles registered in enhanced areas if the vehicles were purchased by a licensed Department of Motor Vehicles Motor Vehicle Dealer, as defined in Section 285 of the Vehicle Code, with the intent of offering the vehicles for sale upon the dealer's premises that are located in basic or change of ownership areas. Gold Shield stations authorized pursuant to this paragraph shall not issue a certificate of compliance to a vehicle registered in an enhanced area that is required to have an enhanced area

test if the vehicle is owned by an entity other than a Motor Vehicle Dealer licensed by the Department of Motor Vehicles.

(b) All emissions-related repairs at a Gold Shield station shall be performed in a good and workmanlike manner and in accordance with the procedures specified by the vehicle manufacturer or by repair standards generally accepted by the industry.

(c) A Gold Shield station shall display an exterior sign that meets the following specifications:

(1) The dimensions of the sign shall be 24 inches wide and 30 inches high.

(2) The sign shall be made of 0.040-inch aluminum, steel, or plastic.

(3) The Bureau shall supply a camera-ready design and content of the sign.

(d) A Gold Shield station may advertise those services authorized by subsection (a), other than by displaying the sign specified in subsection (c).

(e) A Gold Shield station shall allow bureau personnel reasonable access to the station for the on-site inspection of vehicles where repairs are still in progress or have been completed and the vehicles remain on the premises. The inspections shall be for the purpose of evaluating the appropriateness and effectiveness of the repairs performed by the station.

Note: Authority cited: Sections 44001.5, 44002, 44010.5, 44014.2 and 44095, Health and Safety Code. Reference: Sections 44010.5, 44014, 44014.2 and 44092, Health and Safety Code.



SHERRY MEHL, Chief
Bureau of Automotive Repair